THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19701 OF 2005

ORDER:

The petitioner is a resident of Teeparu village. He filed the Writ Petition on an apprehension that the respondents 1 to 3 might not notify sand quarries for auction and may renew the lease of the 4th respondent for a second year from 30.9.2005.

In a nutshell, the fact of the matter is that for the year 2004-2005 (1.10.2004 to 30.9.2005), the 2nd respondent conducted auction to quarry sand situated in West Godavari District (22 reaches in a single package). The 4th respondent became the highest bidder. Assailing the same the petitioner filed W.P.No.19747 of 2004, which was dismissed. In the Writ Appeal being W.A.No.1884 of 2004, the petitioner also failed by reason of the Judgment of the Division Bench dated 29.12.2004. Be it noted that the 4th respondent became the highest bidder and he was sanctioned quarry lease for a period of one year, which is coming to an end by 30.9.2005. The petitioner therefore seeks a direction to the respondents 1 to 3 to conduct auction for the year 2005-2006.

Rules 9-B (2) to 9-X of the A.P. Minor Mineral Concession Rules, 1966 – hereinafter called the 'Rules' (for brevity) deal with granting of lease for sand bearing areas. Rule 9-B (1) is the relevant Rule and it reads thus:

> 9-B (1). All the sand bearing areas in the State shall be leased out by Sealed Tender cum Public Auction reach or village wise wherever applicable by Mandal Revenue Officer or Revenue Divisional Officer or Joint Collector for a specified period in any case not more than two years with an yearly enhancement of 10% of the knocked down am9ount and subject to the conditions prescribed in the notice of Sealed Tender cum Public Auction as specified in Rule 9-C.

A plain reading of the above Rule would show that it is open to the competent authority to lease out sand bearing areas by Sealed Tender cum Public Auction for a period specified not exceeding two years. It is not denied that the lease deed also provides for such a clause. Further, as per Sub-clause (b) of Sub-rule (2) of Rule 9-B, it is open to the District Committee to decide any matter during the course of implementation of the Rules i.e., Rules 9-B to 9-X. Therefore, it would be futile for the petitioner to contend that no such discretion lies with the District Committee to grant lease for a second year to the successful bidder of the last year.

The petitioner also cannot be heard to say that continuation of lease for the second year in favour of the 4th respondent would be prejudicial to the public

interest. This aspect of the matter was also considered by a Division Bench in W.A.Nos.1848, 1884 and 1910 of 2004. It was observed therein thus:

> No prejudice was caused to the public interest in awarding the contract in favour of the 4th respondent. Since no prejudice was caused to the interest of the State, the judicial quest in administrative matters has been to find right balance between administrative discretion in contractual matters and any unfairness in the said action. There can be no question of infringement of the equality clause, if the Government tries to get the best person to best quatation. The right to choose cannot be considered to be an arbitrary power, unless such power is exercised for any collateral purpose. The action of the official respondents does not suffer from any of these infirmities. Thus, we find no reasons to interfere with the impugned judgment in dismissing the Writ Petitions of the appellants. The Writ Appeals fail and are liable to be dismissed.

The petitioner or for that matter any person has no right to compel the Government to lease out the sand bearing areas to him or her. The only right that is recognized by law is the right of equal opportunity to participate in auctions as and when they were conducted in accordance with law. When the relevant law itself provides for extension of lease for a period of one year, it would be futile for the petitioner to seek a Writ of Mandamus as prayed for.

The Writ Petition is misconceived and there is no legal right vested in the petitioner, which can be implemented by issuing a Mandamus. The Writ Petition is accordingly dismissed.

6th September, 2005. V.V.S. RAO, J.

Kgr